

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

FILED

MAY 03 2007

**SECRETARY, BOARD OF
OIL, GAS & MINING**

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IN THE MATTER OF THE	:	CONVERSION OF INFORMAL
ADMINISTRATIVE APPEAL OF	:	PROCEEDING TO FORMAL
APPLICATION DENIAL BY WRIGHT	:	ADJUDICATION
GARFF RESOURCES, STAR STONE	:	
QUARRIES INC., SUMMIT COUNTY,	:	
UTAH	:	DOCKET NO. 2007-011
	:	CAUSE NO. S/043/030, M/043/012

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In accordance with a request dated December 1, 2006, from Mr. Steven A. Wuthrich, attorney representing Wright-Garff Resources, LLC, the Division of Oil, Gas and Mining conducted an Informal Conference commencing at 9:10 a.m. on March 1, 2007 in the Department of Natural Resources auditorium in Salt Lake City, Utah. Division Director John R. Baza presided at the conference as the designated Hearing Officer. The subject of the Informal Conference was the administrative appeal of Wright-Garff of the Division's decision to not process Wright-Garff's Notice of Intention to conduct small mine operations in Summit County, Utah. The basis of the Division's decision involved an existing large mining permit for the same tract of land that had been previously issued by the Division to Star Stone Quarries.

Representation of parties at the conference consisted of:

For the Division of Oil, Gas and Mining:
James P. Allen, Assistant Attorney General
Keli Beard, Assistant Attorney General
Susan White, Mining Program Coordinator

For Wright-Garff Resources:
Edward B. Rogers, Manager
Ron Howell, Chief Financial Officer, EBR Management
James Rogers, EBR Management

For Star Stone Quarries:
Ronald S. George, Attorney
Lon Thomas, President
Beverly Thomas
Nicole Wobbe-Espinoza, Assistant to Mr. Thomas

Also present:

Mary Ann Wright, Associate Director, Mining for the Division of Oil, Gas and Mining

Following a welcome by the Hearing Officer and introduction of the parties, each of the parties made statements regarding their positions and concerns. Parties then participated in questions and answers among themselves and with the Hearing Officer. At the conclusion of the presentations, the Hearing Officer requested briefs from each of the parties to address two items:

1. What legal avenues are there for each of the parties, the surface owner (Star Stone Quarries) and the principal mineral owner (Wright-Garff), to proceed with the valid use of their respective estates? Is there any possibility to allow dual permits?
2. What is the Division legally allowed to do relative to revocation or amendment of the existing permit issued to Star Stone Quarries?

The Hearing Officer requested these briefs to be filed by close of business on March 22nd. Subsequent to the hearing, the Hearing Officer granted an extension for filing of briefs until close of business on March 26th. All parties timely filed their briefs by the required deadline.

After presiding at the informal conference and reviewing the submitted briefs, the Hearing Officer acknowledges that this matter is strongly contested, is fact-intensive, and will require a decision interpreting and applying the rules and statutes governing mining activities and the regulatory responsibilities of the Division. Although the Hearing Officer may rule to either uphold or reverse the Division's decisions regarding Wright-Garff's small mining application, it is desirable to have the Board of Oil, Gas and Mining involved in matters of statute and rule interpretation and application. It is also likely that even after the Hearing Officer would render a decision, the matter would subsequently be formally appealed to the Board.

It also appears to the Hearing Officer that matters of this type should properly be addressed through a formal hearing before the Board in order to apply the Board's procedural rules regarding the filing of motions, filing of exhibits, conduct of hearings, rules of evidence, providing sworn testimony, record of hearing, etc. Such procedures ensure that all parties and the public are best served with accurate records and sharing of documents and information.

Therefore, for the aforementioned reasons, the Hearing Officer finds the following:

1. It is in the public interest that this matter should be considered by formal hearing of the Board of Oil, Gas and Mining.
2. Conducting a formal hearing on this matter by the Board will not prejudice the rights of any of the parties.

In accordance with R647-5-105, Utah Administrative Code (2006), the Hearing Officer hereby converts this matter to a formal adjudicative hearing before the Board of Oil, Gas and Mining to be considered at the regularly scheduled meeting of the Board on June 27, 2007.

The purpose of the hearing will be for the Board to:

1. Consider whether to uphold or reverse the Division's decision to not process Wright-Garff's Notice of Intention to conduct small mine operations in Summit County, Utah; or
2. Consider any other proposals, including a proposal by the Division stated in its brief to the Hearing Officer dated March 26, 2007, that would allow Wright-Garff to proceed with mining activities; and
3. Make findings and orders as necessary in connection with this matter; and
4. Provide such other relief as may be just and proper under the circumstances.

All documents and information previously compiled by the Division as part of the Informal Conference will be submitted to the Board to be included as part of the formal hearing record, and the Division will provide an appropriate Notice of Agency Action of the formal hearing as required by applicable rules and statutes.

Dated this 3rd of May, 2007

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING



John R. Baza, Director
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing CONVERSION OF INFORMAL PROCEEDING TO FORMAL ADJUDICATION for Docket No. 2007-011, Cause No. S/043/030, M/043/012 to be mailed with postage prepaid, this 3rd day of May, 2007, to the following:

CERTIFIED MAIL

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